

Appl. No. 09/994,651

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October 8, 2003

Reply to Office Action of July 8, 2003

REMARKS

Applicants respectfully request the Examiner to reconsider the present application in view of the foregoing amendments to the claims.

In the present amendment, claim 11 has been canceled, and claims 13-20 have been added. Claims 10 and 12 have been withdrawn. Also, claims 1, 3 and 5-6 have been amended. Thus, claims 1-10 and 12-20 are pending in the present application.

No new matter has been added by way of these amendments and new claims because each amendment and new claim is supported by the present specification. For example, the amendment to claim 1 is supported by the present specification at pages 4-5. Also, this amendment is for clarification purposes, and not narrowing in any respect. Thus, Applicants reserve the right to pursue any equivalents for the feature(s) of this claim.

The changes to claim 3 have support at pages 5-7, also containing many clarifying amendments. The amendment to claim 3 is also supported in the paragraph bridging pages 13-14 of the specification. The clarifying amendments to claims 5-6 have support at page 14, lines 7-13 of the specification.

New claim 13 has support in the paragraph bridging pages 13-14 of the specification and originally filed claims 5-6. New claim 14 is supported by original claim 1 and in the specification at page 4, lines 5-6 from the bottom. New claims 15-17 is supported at page 10, lines 5-

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14 of the specification. And new claims 18-20 have support at page 10, lines 15-19.

Thus, no new matter has been added.

Based upon the above considerations, entry of the present amendment is respectfully requested.

In view of the following remarks, Applicants respectfully request that the Examiner withdraw all rejections and allow the currently pending claims.

Affirmation of Election

Applicants hereby confirm their election of Group I, claims 1-9 (see paragraph 5, page 3 of the Office Action).

However, Applicants respectfully traverse the Restriction Requirement since a powdery dispersant that is deemed patentable should also be patentably distinct when used in a mixture. Reconsideration and withdrawal of the Restriction Requirement is respectfully requested.

Issues Under 35 U.S.C. § 112, Second Paragraph

Claims 1-9 stand rejected under 35 U.S.C. § 112, second paragraph, for reasons of indefiniteness. Applicants respectfully traverse.

The powdery dispersant of claim 1 is made by copolymerizing monomers (a) and (b). Claim 1 has been clarified in this manner.

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With regard to "average mole number of added groups," Applicants respectfully refer the Examiner to page 8, lines 22-24 of the present specification. It is clear that Applicants are referring to the specific AO groups.

With regard to the claim language for the M¹ and M² groups, an anhydride is optionally formed so that these M groups are no longer present.

With regard to the claim language of "oxyalkylene groups or oxystyrene groups added to the dispersant molecule," the oxyalkylene groups or oxystyrene groups refer to the copolymer.

Applicants also refer the Examiner to claims 5 and 6, wherein n values are recited.

Accordingly, Applicants respectfully submit that the presently pending claims recite clear and definite claim language. Reconsideration and withdrawal of this rejection is respectfully requested.

Issues Under 35 U.S.C. § 102(e)

Claims 1-10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the Isomura et al. '027 reference (U.S. Patent No. 6,437,027). Applicants respectfully traverse.

The present invention is directed to a powdery dispersant for a hydraulic composition, wherein the powdery dispersant comprises a

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certain copolymer. The copolymer is made by polymerizing a vinyl monomer (a) and a vinyl monomer (b) (see the features of claim 1 or claim 3). The monomer ratio of (a)/[(a) + (b)] × 100 ranges from 15 to 45 (mole%). Also, the average mole number of the C₂₋₄ oxyalkylene groups or oxystyrene groups of the copolymer ranges from 45 to 150 (see claim 1), or from 70 to 115 (see claim 3).

The Isomura '027 reference is asserted to disclose these features of the present invention. However, Applicants respectfully submit that this reference is deficient in such disclosure. Isomura '027 merely discloses a mixture of a polycarboxylate polymer compound having a polyalkylene glycol chain and a reducing agent. There is no disclosure of all features as instantly claimed.

Because "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," the cited Isomura '027 reference cannot be a basis for a rejection under § 102(e). See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Thus, because of the lack of disclosure of all features as instantly claimed, the rejection in view of Isomura '027 is overcome. Reconsideration and withdrawal are respectfully requested.

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Issues Under 35 U.S.C. § 102(b)

Claims 1-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the JP '660 reference (Japanese Public. No. JP02000103660A). Also, claims 1-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the JP '309 reference (Japanese Publication No. JP02000044309A). In addition, claims 1-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the JP '345 reference (JP409328345A). Further, claims 1-8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the JP '315 reference (Japanese Publication No. JP402000086315A). Finally, claim 9 stands rejected under 35 U.S.C. § 102(b) as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as obvious over any one of the above recited Japanese patents, each one individually. Applicants respectfully traverse all of these rejections.

Each and every one of the cited Japanese references fails to disclose all features as instantly claimed. There is even no disclosure of a powder of a dispersant. Thus, under *Verdegaal Bros.*, all rejections under 35 U.S.C. § 102 are instantly overcome.

The dispersants of the present invention is in powder form. Thus, the claimed dispersants can be readily mixed with a cement mixture. There is no disclosure in the cited references of the claimed powdery dispersants.

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With regard to claim 9 and the rejection under § 103(a), a *prima facie* case of obviousness requires disclosure of all claimed features. See *In re Vaeck*, 947 F.2d, 488, 493, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). Thus, Applicants respectfully submit that this rejection is overcome as well.

Applicants also request consideration of the unexpected results of the present invention, which rebut any asserted *prima facie* case of obviousness. As can be seen from Table 2 of the present specification (at page 28), the present invention has unexpectedly achieved better resistance to pressure and humidity, and better pump transportability. Thus, Applicants respectfully request consideration of these patentable distinctions with regard to the cited references.

Based on the above comments and the lack of disclosure in the cited references, Applicants respectfully request the Examiner to reconsider and withdraw all rejections.

Certified English Translations

Applicants properly claimed priority under 35 U.S.C. §§ 119 and/or 120 to the Japanese Patent Application Numbers 2000-361126 and 2000-361125, both filed on November 28, 2000. The claim for priority was made on November 28, 2001. Applicants submit herewith certified English translations of both priority documents. Applicants respectfully request acknowledgement of receipt of these English translations.

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Conclusion

A full and complete response has been made to all issues as cited in the Office Action. Applicants have taken substantial steps in efforts to advance prosecution of the present application. Applicants respectfully request that a timely Notice of Allowance issue for the present case.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Eugene T. Perez (Reg. No. 48,501) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

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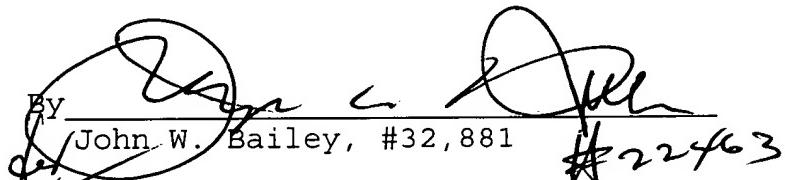
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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachments:

- Certified English translation of Japanese Patent Application Number 2000-361126
- Certified English translation of Japanese Patent Application Number 2000-361125